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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,398	01/05/2004	Christopher N. Gab	3172 PUS	3585

7590 05/23/2006  
Konstantine J. Diamond  
4010 E. 26th Street  
Los Angeles, CA 90023

EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT PAPER NUMBER

3637

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/752,398	<b>Applicant(s)</b> GAB, CHRISTOPHER N.	
	<b>Examiner</b> Timothy M. Ayres	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 26 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152..

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

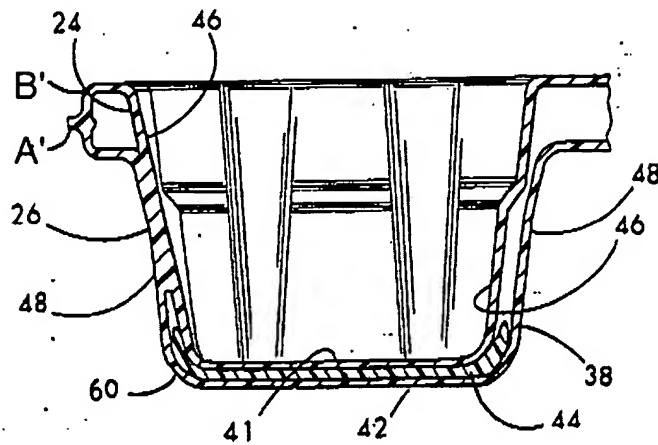
1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

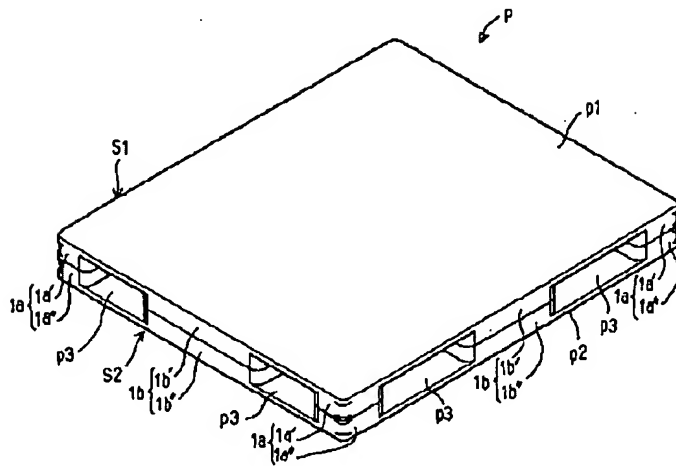
3. Claims 1-3 and 5-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,046,434 to Breezer in view of Japanese Patent 2001-270,525 to Ishizuka Glass. Breezer teaches a pallet (20) with a deck (22) formed from an upper panel (24) and a lower panel (26). The upper panel (22) makes up an upper surface and has a plurality of openings (50). The lower panel (26) extends the plurality of supports (38) as seen in figure 6 below so that each support (38) aligns with an opening (50) (Col. 3, line 37-39). The pallet (20) is a nestable pallet (Col. 3, line 42-52). A projection (A') extends outwardly from the edges (B') of the deck (22). The corners (40) of the pallet (20) are rounded as seen in figure 1.



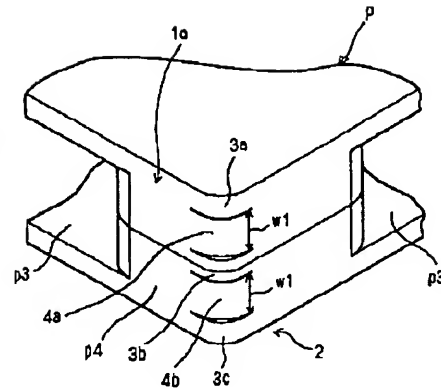
Breezer '434 Figure 6

4. Breezer does not expressly disclose the projection not being continuous about a periphery of the deck, the upper surface of the projection flush with the upper surface of the deck, and the projection not extending past the side edges or past the end edges.

5. Ishizuka teaches a pallet (P) with a deck having an upper surface (p1) for supporting goods (A) as seen in figures 1 and 5. The upper surface (p1) is substantially bounded outwardly by side edges, end edges and corner edges between the side edges and end edges as seen in figure 1. A plurality of supports (1a, 1b) extends downward from the deck. At least one projection (3a) extends outward from the rounded corner edge as seen in figure 6.

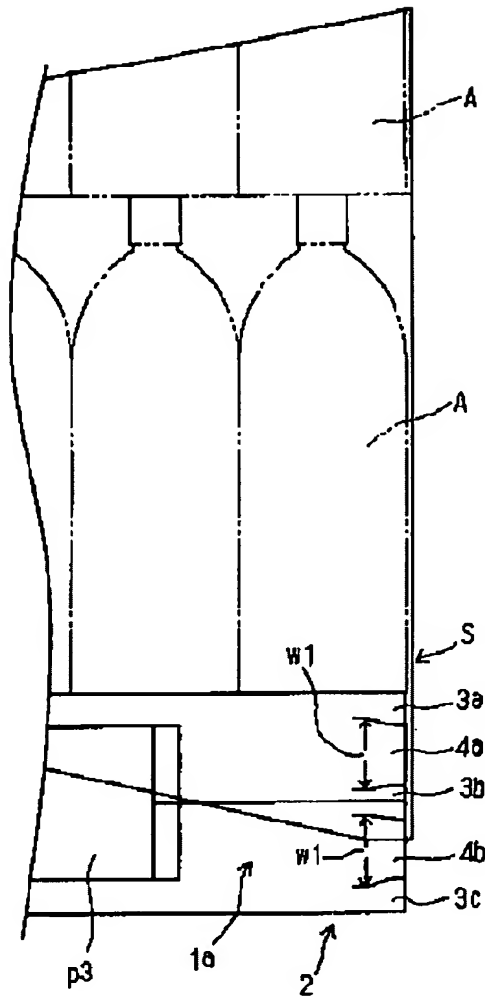


Ishizuka '525 Figure 1

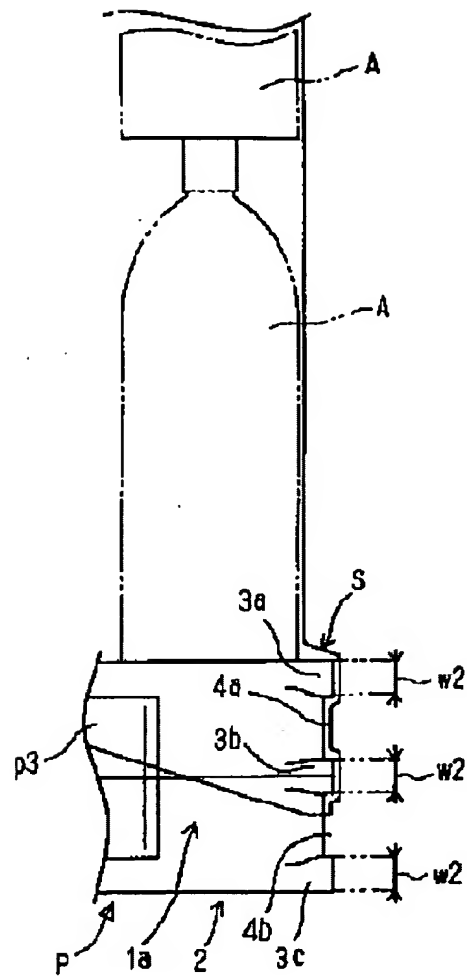


Ishizuka '525 Figure 6

6. The upper surface of the projection (3a) is flush with the upper surface (p1) of the deck as seen in figure 4. The plurality of goods (A) on the upper surface (p1) is wrapped with a wrap (S) to at least partially go around an edge adjacent to the projection (3a) as seen in figures 3 and 5. The projection (3a) does not extend outwardly past the side edges or past the end edges as seen in figure 3.



Ishizuka '525 Figure 3



Ishizuka '525 Figure 4

7. At the time of the invention it would have been obvious to modify the pallet of Brezzer by replacing the projection with one as taught by Ishizuka to hold shrink wrap on the corner of the pallet better.

***Response to Arguments***

8. The examiner missed the 3<sup>rd</sup> page of claims (claims 13-15) on the first office action and therefore this action is a non-final office action. Applicant's arguments with respect to the Breezer reference has been considered but are moot since adding the projection as taught by Glass meets the amended claimed subject matter.

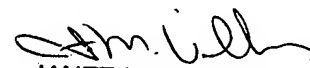
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TMA  
5/15/06



JANET M. WILKENS  
PRIMARY EXAMINER  
AA 73637